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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/030,682	01/14/2002	Hiromoto Ohno	Q60714	8394

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Sughrue Mion
2100 Pennsylvania Avenue NW
Washington, DC 20037-3213

EXAMINER

LANGEL, WAYNE A

ART UNIT PAPER NUMBER

1754

DATE MAILED: 12/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.

EXAMINER	
ART UNIT	PAPER NUMBER

DATE MAILED:

Below is a communication from the EXAMINER in charge of this application
COMMISSIONER OF PATENTS AND TRADEMARKS

ADVISORY ACTION

☐ THE PERIOD FOR RESPONSE:

- ☐ is extended to run _____ from the date of the Final Rejection
- ☐ continues to run _____ from the date of the Final Rejection
- ☐ expires three months from the date of the final rejection or as of the mailing date of this Advisory Action, whichever is later. In no event however, will the statutory period for response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date that the shortened statutory period for response expires as set forth above.

☒ Appellant's Brief is due in accordance with 37 CFR 1.192(a).

☒ Applicant's response to the final rejection, filed 12-2-04 has been considered with the following affect, but it is not deemed to place the application in condition for allowance:

1. ☐ The proposed amendments to the claim and/or specification will not be entered and the final rejection stands because:
- ☐ There is no convincing showing under 37 CFR 1.116(b) why the proposed amendment is necessary and was not earlier presented.
 - ☐ They raise new issues that would require further consideration and/or search. (See Note).
 - ☐ They raise the issue of new matter. (See Note).
 - ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
 - ☐ They present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: _____

2. ☐ Newly proposed or amended claims _____ would be allowed if submitted in a separately filed amendment cancelling the non-allowable claims.

3. ☐ Upon the filing of an appeal, the proposed amendment ☐ will be ☐ will not be, entered and the status of the claims in this application would be as follows:

Allowed claims: _____

Claims objected to: _____

Claims rejected: _____

However:

- ☐ The rejection of claims _____ on references is deemed to be overcome by applicant's response.
 - ☐ The rejection of claims _____ on non-reference grounds only is deemed to be overcome by applicant's response.
4. ☒ The affidavit, exhibit or request for reconsideration has been considered but does not overcome the rejection. *See page 2.*
5. ☐ The affidavit or exhibit will not be considered because applicant has not shown good and sufficient reasons why it was not earlier presented.

☐ The proposed drawing correction ☐ has ☐ has not been approved by the examiner.

☐ Other

Applicant's argument, that Japanese '411 is completely silent regarding the fact that the gas concentration in the reactor is set within a range of preventing an explosion, is not convincing. There is no evidence on record showing that the process of Japanese '411 would explode in the presence of the diluting gas. On the contrary, it would be expected that the process of Japanese '411 would not explode, since applicant's specification discloses on page 4, lines 30-36 that the problems in conventional direct fluorination reaction techniques can be solved and nitrogen trifluoride can be industrially produced with good safety, efficiency and profitability when fluorine and ammonia are reacted in a gaseous phase at 80°C or less in the presence of a diluting gas. It would be expected from such disclosure that any concentration of diluting gas would function in the process of Japanese '411 to prevent an explosion. There is no evidence on record of unexpected results which would emanate from the use of a concentration of fluorine gas of 3 mole percent or less and a concentration of ammonia gas of 6 mole percent or less in the process of Japanese '411. Applicant's argument, that the gas concentrations of Examples 1 and 2 in Japanese '411 are greatly higher than the concentrations recited in claim 1, is not convincing, since the teachings of Japanese '411 are not limited to the Examples. Applicant's argument, that since Japanese '411

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does not disclose any advantage/benefit of using a specific concentration of the gases or that any advantage/benefit could be obtained by adjusting the concentration of the gases, Japanese '411 does not provide any technical motivation that would lead one of ordinary skill in the art to decrease the concentration of fluorine gas to 3 mole percent or less, is not convincing, since there is no evidence on record showing any advantage/benefit of decreasing the concentration of fluorine gas to 3 mole percent or less. In any event, any advantage/benefit resulting from decreasing the concentration of fluorine gas to 3 mole percent or less in the process of Japanese '411 would not be unexpected.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wayne A. Langel whose telephone number is (571) 272-1353. The examiner can normally be reached on Monday through Friday from 8 A.M. to 3:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman, can be reached on (571) 272-1358. The fax phone number for this Group is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be

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obtained from either private PAIR or public PAIR. Status information for unpublished applications is available through private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

WAL:cdc

December 14, 2004

Wayne A. Langel
WAYNE A. LANGEL
PRIMARY EXAMINER